

3

BARRY H. SPITZER, State Bar #161525  
 LAW OFFICE OF BARRY H. SPITZER  
 980 9<sup>th</sup> Street, Suite 380  
 Sacramento, California 95814

Telephone: (916) 442-9002  
 Facsimile: (916) 442-9003

Attorneys for Chapter 7 Trustee  
 Sheri L. Carello

**UNITED STATES BANKRUPTCY COURT**  
**EASTERN DISTRICT OF CALIFORNIA**

In re:	}	CASE NO. 14-28017-D-7
JANET LYNNE COPELAND-NOVAK,		D.C. NO. BHS-2
Debtor.		<b>MOTION FOR SALE OF ESTATE'S INTEREST IN REAL PROPERTY</b>

DATE: March 4, 2015  
 TIME: 10:00 a.m.  
 DEPT: D; COURTROOM 34  
 Hon. Robert S. Bardwil

Sheri L. Carello, duly appointed Chapter 7 Trustee (hereafter the "Trustee") in the above-captioned matter, through her counsel, Barry H. Spitzer, moves this Court for authority to sell the estate's interest in approximately 30 acres of bare real property situated in Jay, in the County of Delaware, State of Oklahoma, with the following legal description:

Part of the NE 1/4 of Section 9, Township 23 North, Range 24 East, Delaware County, Oklahoma. Being more particularly described as follows: Commencing at the SW Corner of said NE 1/4 Run N 00°01'05" E 662.26 Feet to the point of beginning; Thence S 89°51'06" E 1994.60 Feet; Thence North 658.01 feet; Thence 89°43'46" W 1994.42 Feet; Thence S 00°01'05" W 662.26 feet to the point of beginning. Containing 30.23 Acres, more or less. Subject to a 20 foot right of access ingress egress easement along the East 20 feet thereof and all easements of record (hereinafter "Subject Property")

////

1 pursuant to the provisions of 11 U.S.C. section 363(b) of the Bankruptcy Code "as-is." In  
2 support of her Motion, the Trustee states the following:

3 1. The Debtor filed a Chapter 7 petition on August 6, 2014 and Movant was  
4 appointed as the Chapter 7 trustee of the estate of the above-named Debtor that day.

5 2. The Trustee initiated an Adversary Proceeding on December 11, 2014, Case  
6 No. 14-2339-D against the mother and step father of the Debtor for fraudulent transfer of  
7 the Subject Property. The Subject Property was deeded back to the Debtor and was  
8 recorded on December 31, 2014. The Trustee is not aware of any liens on the Subject  
9 Property.

10 3. The Trustee wishes to sell the estate's interest in the Subject Property "as-is"  
11 to Dominic F. Odbert and John P. Odbert for \$22,000.00, and is subject to any and all liens  
12 and encumbrances, if any, pursuant to the Purchase and Sale Agreement, a copy of which  
13 is Exhibit "A." The Trustee believes it is in the best interest of the estate to sell the estate's  
14 interest in the Subject Property to Dominic F. Odbert and John P. Odbert for \$22,000.00.  
15 The estate has received a \$3,000.00 deposit from Dominic F. Odbert and John P. Odbert,  
16 which shall become non-refundable if they are the winning bidders.

17 4. The Trustee requests that the Court only approve overbids presented at the  
18 hearing that meet the following criteria:

19 (a) Overbidding shall start at \$23,000.00, with the buyer agreeing to all  
20 terms and conditions in the Purchase and Sale Agreement, a copy of which is Exhibit "A."  
21 The over bidder shall be liable for any Broker fee for their Broker, if any. The overbids shall  
22 be in minimum \$1,000.00 increments.

23 (b) To qualify as a bidder, the bidder must bring to the Court a Cashier's  
24 Check or a certified check for \$4,000.00. This Cashier's or certified check shall serve as  
25 a non-refundable deposit if the overbid is successful.

26 (c) The successful overbidder must deliver to the Trustee a Cashier's or  
27 certified check for the overbid amount within 48 hours of Court approval of the sale.

28 (d) Escrow to close within fifteen (15) days of Court approval.

1           5.     The Trustee seeks authority to execute any and all additional conveyances,  
2 assignments, schedules and other documents as may be necessary to consummate this  
3 sale.

4           6.     The Trustee further seeks a waiver of the fourteen day waiting period  
5 imposed by Federal Rule of Bankruptcy Procedure, Rule 6004(h).

6           WHEREFORE, Sheri L. Carello respectfully requests that she be authorized to sell  
7 to Dominic F. Odbert and John P. Odbert "as-is" the estate's interest in approximately 30  
8 acres of bare real property situated in Jay, in the County of Delaware, State of Oklahoma,  
9 with the following legal description:


10                   Part of the NE 1/4 of Section 9, Township 23 North, Range 24  
11                   East, Delaware County, Oklahoma. Being more particularly  
12                   described as follows: Commencing at the SW Corner of said  
13                   NE 1/4 Run N 00°01'05" E 662.26 Feet to the point of  
14                   beginning; Thence S 89°51'06" E 1994.60 Feet; Thence North  
15                   658.01 feet; Thence 89°43'46" W 1994.42 Feet; Thence S  
16                   00°01'05" W 662.26 feet to the point of beginning. Containing  
17                   30.23 Acres, more or less. Subject to a 20 foot right of access  
18                   ingress egress easement along the East 20 feet thereof and all  
19                   easements of record

20 pursuant to the provisions of section 363(b) of the Bankruptcy Code, with existing liens and  
21 property taxes being paid by the estate through escrow; and authority to execute any and  
22 all additional conveyances, assignments, schedules and other documents as may be  
23 necessary to consummate this sale. The Trustee further seeks a waiver of the fourteen  
24 day waiting period imposed by Federal Rule of Bankruptcy Procedure, Rule 6004(h).

25                   Respectfully submitted,

26           DATED: February 2, 2015

27                   LAW OFFICE OF BARRY H. SPITZER

28                   By:   
                      BARRY H. SPITZER  
                      Attorneys for Sheri L. Carello,  
                      Chapter 7 Trustee